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SYMPOSIUM ON EXPLORING EXTRATERRITORIALITY'S EMPIRE

INTRODUCTION

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Extraterritorial practices seem to be in a phase of inexorable expansion. Certainly, the number of extraterritorial laws on the books has increased dramatically in recent decades—not only in the most developed economies but in countries large and small around the globe.[1] In addition, new modalities have emerged. Alongside the archetypical form of extraterritoriality—the application by a state of its own law, in its own interest, to matters implicating the sovereign authority of another state—we see the deployment of extraterritorial practices to secure shared or universal goals.[2]

Yet these developments have in no way diminished the echoes of imperialism that surround extraterritorial action. A state's capacity to effectively enforce extraterritorial domestic legislation is a function of its political and economic power. And even multilateral instruments embodying the consent of member states to extraterritorial practices—for instance, in the context of cross-border criminal activity—may reflect the values of dominant states. As a result, the search for limits continues, implicating not only customary principles of jurisdictional law but other doctrines of international law such as the right of self-determination, as Evan Criddle recently argued.[3]

The essays in this symposium explore different aspects of extraterritoriality's role in the contemporary legal order.

Two contributors focus on "traditional" extraterritoriality—that is, the unilateral extension of domestic legislation across borders—but from dramatically different perspectives. First, Md. Rizwanul Islam considers the posture of small states of the Global South *vis-à-vis* dominant states of the Global North, taking note of the recent spate of extraterritorial legislation by the former. He argues that such laws will offer those states little gain in the way of actual enforcement, and may actually contribute to the erosion of customary international law constraints on extraterritoriality, to the ultimate benefit of dominant states. He urges small states to assert their influence on the international plane by raising persistent objections to the overreach of extraterritorial lawmaking by the Global North rather than unintentionally legitimizing extensions in the authority of dominant states. Next, Angela Zhang considers extraterritoriality as practiced between two dominant states: China and the United States. She examines China's initial restraint in enforcing its own laws to counter U.S. sanctions and trade restrictions, and its recent escalation of countermeasures in the form of rare-earth export controls. Her essay explores the operation of extraterritoriality not as a manifestation of legal imperialism but as a front in great-power competition.

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[1] For a recent survey, see EXTRATERRITORIALITY IN COMPARATIVE PERSPECTIVE (Hannah L. Buxbaum ed., 2025).

[2] *See, e.g.*, Nico Krisch, *Jurisdiction Unbound: (Extra)Territorial Regulation as Global Governance*, 33 EUR. J. INT'L L. 481 (2022).

[3] Evan J. Criddle, *Extraterritoriality's Empire: How Self-Determination Limits Extraterritorial Lawmaking*, 118 AJIL 607 (2024).

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Three of the essays address extraterritoriality not as a unilateral practice but as one embedded in international law frameworks. Even here, the authors note, legitimacy problems remain. Gillian MacNeil considers the field of transnational criminal law, structured by multilateral treaties granting all states, including weaker states, the authority to apply their law extraterritorially. Paradoxically, she observes, this regime in practice enables dominant states to constrain the sovereignty of others, creating a new form of imperialism. Next, Pasha Hsieh turns to another type of treaty framework, considering international trade agreements. Like MacNeil, he concludes that state consent does not necessarily confer legitimacy; indeed, he argues that these agreements can be used to operationalize a form of extraterritorial economic coercion. Noting that neither jurisdictional norms nor the right to self-determination can effectively constrain this form of extraterritoriality, he advocates the development of stronger multilateral trade frameworks. Finally, Alejandro Chehtman analyzes the extraterritorial enforcement of criminal law on the basis of universal jurisdiction, focusing on Argentina's experience. Here he locates another application of the right of self-determination: it can serve not merely as a shield against another state's extraterritorial intervention, but as a source of normative authority empowering courts to seek justice for the victims of *jus cogens* violations while resisting exploitation by other states.

The last pair of essays considers the promise of extraterritoriality as a means of securing shared and/or global objectives. In the first, Rosemary Byrne addresses the human and labor rights of migrant workers in the Gulf. She describes the steps that sending states take to secure extraterritorial rights for their nationals abroad—and also the fragmentation and complexity that result when rights are framed in terms of state injuries and transactional claims rather than in universal terms. In the second, Danielle Ireland-Piper explores extraterritoriality as a means to address climate change. Building on the nexus of climate change and national security, she assesses whether foregrounding the security implications of climate change might open opportunities for more aggressive extraterritorial regulation of climate emissions—and what the risks of such an approach would be.

On a topic of this breadth, the essays in this volume cannot lay any claim to exhaustiveness. As a group, though, they highlight both the durability of old debates regarding sovereignty and imperialism and the vast expansion of the terrain on which extraterritoriality now operates. They also underscore the reality that whatever its form and whatever its objectives, extraterritoriality is enmeshed in geopolitics, necessitating ongoing attention to its legitimacy.

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